

REMARKS

In the **non-final** Office Action mailed November 9, 2009 the Examiner noted that claims 1-20 were pending and rejected claims 1-20. In this amendment claims 1, 3-7, 12, 14-17 and 19 have been amended, no claims have been canceled, and, thus, in view of the foregoing claims 1-20 remain pending for reconsideration which is requested. No new matter has been added. The Examiner's rejections and objections are traversed below.

REJECTIONS under 35 U.S.C. § 112

Claims 1-19 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. In particular, the Office states that several terms in the claims are unclear or lack proper antecedent basis. The Applicant has amended the claims to overcome the rejection.

Withdrawal of the rejections is respectfully requested.

REJECTIONS under 35 U.S.C. § 103

Claims 1-10, 13-16 and 18-20 stand rejected under 35 U.S.C. § 103(a) as being obvious over Daly, U.S. Patent

No. 5,878,141 in view of Giordano, U.S. Patent Publication No. 2009/0228336. The Applicant respectfully disagrees and traverses the rejection with an amendment and argument.

On page 6 of the Office Action, the Office asserts that Daly, col. 13, lines 22-35 "automatic means for determining parameters for control of the data exchanges over said network corresponding to the credit or billing data; and automatic means of data exchange control over said network (2) according to the parameters thus determined," as in claim 1.

However, the present invention concerns the control of access to data on a conditional access server by a receiver according to billing and credit data associated with a payment instrument used to pay for access to the data.

The present invention enables access by the receiver to conditional access data on the server to be controlled by an independent control server according to credit or billing data associated with a payment instrument. This allows, for example, the time duration or the time of access to the data to be controlled depending on the credit or billing data associated with the selected payment means.

Consistent with this understanding the Applicants have amended claim 1 to recite "automatic means for determining parameters for control of the data exchanges over said network ***between said receiver station and said data server with***

conditional access corresponding to the credit or billing data; and automatic means of data exchange control over said network (2) **for controlling access to data of said data server** according to the parameters thus determined.” Support for the amendment may be found, for example, in ¶¶ 0067 and 0079 of the printed publication version of the Specification. The Applicants submit that no new matter is believed to have been added by the amendment of claim 1. Claim 20 has been amended in a consistent manner.

In Daly, the system does not concern the exchange of data between a receiver and a conditional access data server, nor does it concern the control of access by a receiver to conditional access data stored on a server. Instead, payment for a purchase of good or services of a merchant by a purchaser is simply accepted or denied according to billing data. There is no disclosure of access to data on a merchant server by a purchaser server.

The Office does not assert and the Applicants have not found that Giordano discloses such a feature or the combination of Daly and Giordano disclose such a feature.

For at least the reasons discussed above, Daly and Giordano, taken separately or in combination, fail to render obvious the features of claims 1 and 20 and the claims dependent therefrom.

Claims 11 and 12 stand rejected under 35 U.S.C. § 103(a) as being obvious over Daly in view of Giordano in view of Riley, U.S. Patent Publication No. 2002/0010800.

Riley adds nothing to the deficiencies of Daly and Giordano as applied to claim 1 as discussed above. Therefore, Daly, Giordano and Riley, taken separately or in combination, fail to render obvious the features of claims 11 and 12.

Claims 17 stands rejected under 35 U.S.C. § 103(a) as being obvious over Daly in view of in view of Adam, U.S. Patent Publication No. 2002/0181710.

Riley adds nothing to the deficiencies of Daly and Giordano as applied to claim 1 as discussed above. Therefore, Daly, Giordano and Riley, taken separately or in combination, fail to render obvious the features of claims 11 and 12

Withdrawal of the rejections is respectfully requested.

SUMMARY

It is submitted that the claims satisfy the requirements of 35 U.S.C. §§ 112 and 103. It is also submitted that claims 1-20 continue to be allowable. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

The Commissioner is hereby authorized in this,

concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

/James J. Livingston/
James J. Livingston, Jr.
Reg.No. 55,394
209 Madison Street, Suite 500
Alexandria, VA 22314
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

JJL/lad